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INDEPENDENT LEGISLATIVE
REVIEW COMMISSION



House of Representatives

COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

March 2, 1999

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Pennsylvania State Ethics Commission
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Dear Mr. Contino:

The purpose of this letter is to raise several issues that the Act 93 committee should address as part of the public comment in regard to the proposed regulations implementing the Lobbying Disclosure Act.

After discussing the proposed regulations with Speaker of the House Matthew J. Ryan, he suggested that I bring some of these concerns to the attention of the Act 93 committee for consideration during this commentary period. This letter reflects some of my concerns after reviewing the proposed regulations and after discussing them with knowledgeable persons on our caucus staff and with members of the House Democratic staff who are conversant with these issues.

The following is a brief synopsis of some of the issues that I believe the committee should consider in reviewing its proposed regulations:

- The regulation should establish a timetable for quarterly filings of expense reports which commence with January 1 rather than December 1 in order to comport with the clearly specified statutory intent in § 1305(b)(3)(ii) that lobbyists/principals file their expense reports before members are required to file their ethics disclosure statements with respect to the same reporting period. Under the proposed regulations, members seeking reelection will be required to file their ethics statements in presidential election years for a period that includes the previous December before lobbyists/principals will be required to file for the same month.
- The regulations should codify the clear legislative intent, as expressed by Majority Leader John M. Perzel during Floor debate, that constituent services are not to be regarded as reportable items or as gifts.

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John J. Contino, Executive Director

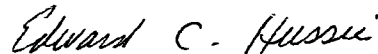
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- The proposed regulation for calculating gifts/hospitality/travel benefits should be revised to protect a member against an unfair and inaccurate equal proration of imputed benefits under circumstances where that legislator orders a low-cost meal at a restaurant, such as a salad, while the other participants are consuming lobster and wine.
- The provision for "for-cause" audits should be deleted since there is no statutory basis for such audits and because this proposal is inconsistent with clearly expressed legislative intent to confine such audits to random ones.
- The proposed regulation governing access to a registrant's computerized/electronic records should be subjected to safeguards which will prevent intrusion into information governing communications between legislators and registrants on sensitive legislative issues absent a showing of legally sufficient cause to access such information.
- The proposed regulation should reflect the legislative intent manifested in § 1308(h) and § 1309(c) of the Lobbying Disclosure Act by employing the same 4-member majority for determining violations which could lead to penalties and by utilizing the same clear and convincing proof standard which is applied under the State Ethics Act.
- The proposed regulations should exempt any legislator initiated requests to registrants for legislative and constituent related information from its definition of "efforts to influence legislative or administrative action" rather than simply exempting "purely technical data."

If you or your staff have any questions or would like to discuss any of these points in greater detail, please let me know.

Very truly yours,



Edward C. Hussie, Chief Counsel

ECH:kag

cc: Honorable Matthew J. Ryan, Speaker
Honorable John M. Perzel, Majority Leader
Brian Preski, Chief Counsel, Judiciary Committee
Susan Boyle, Executive Director, State Government Committee
Reizdan B. Moore, Chief Counsel to the Democratic Caucus
Michael P. Edmiston, General Counsel, Democratic Caucus
Vincent J. Dopko, Chief Counsel, State Ethics Commission